

3. The Court lacks subject matter jurisdiction over West's claims under the Hawaii False Claims Act (Count VI) because they are based on the same allegations as those being pursued by the State of Hawaii in a separate lawsuit. *See* HI ST § 661-27(e)(3).

A memorandum of points and authorities in support of the motion is being submitted herewith.

Date: June 11, 2007

Respectfully submitted,

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By: /s/ Scott D. Stein
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CERTIFICATE OF SERVICE

I, Jordan S. Ginsberg, certify that on June 11, 2007, I electronically filed the foregoing document with the Clerk of the Court for the District of Massachusetts using the court's CM/ECF system.

A copy of the foregoing also has been served on the following individuals by depositing a copy in the U.S. mail, first-class postage pre-paid:

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